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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/895,788	06/29/2001	Thomas L. Stachura	42390P10773	5580

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EXAMINER
SHIFERAW, ELENI A

ART UNIT	PAPER NUMBER
2136	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
09895788	6/29/01	STACHURA ET AL.	42390P10773

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EXAMINER
Eleni A. Shiferaw

ART UNIT	PAPER
2136	20070801

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

IDS(s) submitted on 05/07/2007 has been considered and an initialized copy attached with the current office action (Advisory action).

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>07 May 2007</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

    a) ☐ The period for reply expires _____months from the mailing date of the final rejection.

    b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

    Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

    (a)☐ They raise new issues that would require further consideration and/or search (see NOTE below);

    (b)☐ They raise the issue of new matter (see NOTE below);

    (c)☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

    (d)☐ They present additional claims without canceling a corresponding number of finally rejected claims.

    NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

    The status of the claim(s) is (or will be) as follows:

    Claim(s) allowed: _____.

    Claim(s) objected to: _____.

    Claim(s) rejected: _____.

    Claim(s) withdrawn from consideration: _____.

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: <u>See Continuation Sheet.</u>

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____

13. ☐ Other: _____.

Continuation of 11. does NOT place the application in condition for allowance because: Regarding argument references failure to address synchronized security values or the resynchronization of synchronized security sequence values, remark page 12 par. 2, page 14 number 2-4, the examiner disagrees with applicant's contention. Applicant has not defined nowhere in the specification what his SYNCHRONIZED SECURITY SEQUENCE VALUES are. Applicant cannot just argue my security sequence values are different from the applied reference sequence number. Applicant is required to either explain what made his sequence values secure in the remark, or define what they are in the disclosure. Applicants disclosure states that authenticating secure network communication using secure sequence value, storing a security sequence values in the first device, sending stored security sequence value to the second device as a resynchronization request when a dysynchronization event occurs, and the second device returning the stored security sequence value and security sequence value from the second device for resynchronization (Gambino col. 6 lines 3-16 of applicants disclosure). The applied reference on the other hand teaches network authentication based on sequence values (BSN) see Gambino col. 1 lines 21-col. 2 lines 56 where Gambino explains his invention as to the recovery of network operations after a failure of a network unit that causes loss of data messages sent on an RTP connection in the network, and out of order arrival of data messages. Each data message contains a SYNC number and a byte sequence number (BSN) that enables the destination node to determine when data is lost or arrives out of order. A recipient of each message tests to determine whether the message has a next expected byte sequence number and discards any BSN older than the next expected byte sequence number. The system includes means for retrieving, after the failure of the data processor unit, a stored SYNC number and BSN, means for incrementing the SYNC number and BSN by a predetermined amount to obtain a new SYNC number to insure that the new SYNC number comprises a current SYNC number, means for sending a message from the first node to a second node and the message including SYNC number and BSN, response message for received message that contain a BSN of a next piece of data, and when power offs/component failure occurs, desynchronizing the disconnected BSN and SYNC number of the communication for secure communication. It is clear that Gambino does in fact teach synchronized secure sequence values and/or synchronized security values and resynchronization for authentication of secure communications as recited in all independent claims.

Regarding argument no indication that there is a desynchronizaiton of the secured communications, remark page 13 par. 2, argument is not persuasive because as explained above the communication between the data host/first data processing system 12 and remote system/second data processing system 16 was failed and/or desynchronizaiton was made (see Gambino col. 2 lines 33-37, col. 5 lines 1-5, and claim 1 lines 26-29).

Regarding argument Gambino differs from applicant's invention, remark page 13 par. 2, argument is not persuasive because Gambino teaches all the steps of applicant's claims. Gamino periodically stores sequence numbers (BSNs) for recovery of system failure and/or for resynchronization request (see col. 4 lines 24-41). Gambino teaches sending a resynchronization request to a second device and the resynchronization request comprising sequence number (BSN) when desynchronization occurs (see col. 2 lines 33-37, col. 5 lines 1-5, and claim 1 lines 26-29). And

Jonson is disclosed for claims that disclose returning resynchronization request by transmitting received sequence value and second device sequence value (see col. 2 lines 19-60). And resynchronization is established (see col. 2 lines 33-56 and claim 1 lines 30-34). Regarding argument Johnson is not relevant to the claims and does not address security, remark page 15 par. 2, argument is not persuasive because the word "security" does not have to be in the reference however sequence information is used for network communication i.e. when desynchronization occurs the communication is resynchronized back and communication data between sender and receiver is securely exchanged after resynchronization see abstract.
Jonson is solving the same problem and/or communication resynchronization when desynchronization occurs. Moreover, applicant is ADVISED to take a look RULES in 82 USPQ2d 1385 (2007).

Regarding argument, for dependent claims 7, 15, and 24, references failure to teach "wherein sending at least a representation of said client and said sever resynchronization values includes embedding said client and said server resynchronization values in at least one header, payload, or both of a data packet that confirms to IPsec standards, remark page 16 par. 3-page 17 par. 2, argument is not persuasive because applicant has never argued regarding these dependent claims while the office has sent multiple office actions using the same references. Applicant is bringing new issues that he agreed before by not arguing. This limitation cannot be argued for claim 24 because "the data packet that confirms to IPsec standards" is not clearly claimed as argued. These dependent claims are not dependent to base claims 1, 17, 28, 31, and 33. Moreover, assuming the references did not discloses these limitation, as applicant stated in the remark IPsec ESP is DESCRIBED IN THE APPLICANT'S BACKGROUND AS WELLKNOWN. Moreover, Gambino discloses this limitation (see col. 4 lines 45-50 and col. 3 lines 60-67; a header transport/THDR containing sequence number...RTP).

Regarding applicant's argument Jari failure to disclose sequence of synchronized security, no desynchronizing, and no resynchronizing, remark page 17 par. 3-6, the examiner respectfully disagrees with the Applicant's contentions and would like to draw the Applicant's attention to reference Jari where he discloses an IP security-capable security gateway comprising security association database for controlling secure communications between the network and external users (see, abstract) and the security gateway retrieves the most recently stored security association number during loss of communication with external user in the event of power failure or any other failure and provides/injects the retrieved security association number to resynchronize the communication (see 0037) or calculates and injects the correct security association number to resynchronize communication between the security gateway and external user (see, 0038-0040).

Regarding Jari failure to teach dependent claims 7, 15, and 24, same examiner's argument applies as above wherein applicant never argued before, and it is disclosed in the background of applicant's disclosure. Moreover, Jari discloses the teachings of a data packet that conforms to IPsec standard (see abstract, par. 0006, 0018, and claim 2).

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